

Message Text

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PAGE 01 ROME 05468 191640Z

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SUBJECT: ITALIAN REGULATION OF FOREIGN BANKS

REF: STATE A-1911 DATED MARCH 7, 1974

1. BASICALLY, FOREIGN BANKS SEEKING TO ESTABLISH IN ITALY OR ALREADY OPERATING IN ITALY RECEIVE NATIONAL TREATMENT BOTH DE JURE AND DE FACTO. IF ANYTHING, TREATMENT MAY BE SOMEWHAT MORE FAVORABLE THAN FOR ITALIAN BANKS. BANK OF ITALY (VIRILANZA) RECOGNIZES DIFFERENCES IN ROLE OF FOREIGN BANKS AND IN TYPES OF OPERATIONS IN WHICH THEY TYPICALLY ENGAGE AND ATTEMPTS TO APPLY BANKING REGULATIONS IN FLEXIBLE WAY SO AS TO TAKE THESE DIFFERENCES INTO ACCOUNT. FOR EXAMPLE, ITALIAN BANKS' LOAN OPERATIONS ARE NORMALLY LIMITED TO GEOGRAPHIC REGION IN WHICH THEY ARE LOCATED. HOWEVER, AT LEAST SOME U.S. BANKS HAVE WAIVERS IN ORDER TO PERMIT THESE BANKS FREELY TO SERVE AMERICAN

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PAGE 02 ROME 05468 191640Z

BUSINESS THROUGHOUT ITALY. ALSO, APPLICATION TO

FOREIGN BANKS OF SOME FORMS OF CREDIT CONTROLS TAKES INTO ACCOUNT FACT THAT MOST FOREIGN BANK FUNDS ARE OBTAINED FROM INTERBANK BORROWING RATHER THAN FROM DEMAND DEPOSITS.

2. FOLLOWING SPECIFIC QUESTIONS RAISED REPAIR:

A. WHAT ARE LEGAL CITATIONS OF GOI LAWS AND REGULATIONS WITH RESPECT TO ESTABLISHMENT AND OPERATIONS OF FOREIGN BANKS IN ITALY? BASIC ITALIAN BANKING LAW IS BANKING LAW OF 1936 AS AMENDED (RDL MARCH 12, 1936, N. 375). ARTICLE 5 PLACES ALL SHORT-TERM CREDIT INSTITUTIONS OPERATING IN ITALY, INCLUDING FOREIGN BANKS, UNDER CONTROL OF BANK OF ITALY AND ARTICLE 28 SPECIFICALLY REQUIRES APPROVAL OF BANK OF ITALY FOR ESTABLISHMENT AND OPERATIONS IN ITALY.

B. HOW DO GOI BANKING LAWS, REGULATIONS OR PRACTICES DIFFERENTIATE BETWEEN US AND ITALIAN BANKS AND BETWEEN US BANKS AND BANKS OF THIRD COUNTRIES (SUCH AS EC) ESTABLISHED IN ITALY? NEITHER IN LAW NOR IN PRACTICE IS DISTINCTION MADE BETWEEN FOREIGN AND ITALIAN BANKS, NOR BETWEEN U.S. BANKS AND OTHER FOREIGN BANKS.

C. WHAT INDIRECT CONTROLS ARE THERE, SUCH AS RESTRICTIONS ON INTRODUCTION OF FOREIGN STAFF OR LOCATION OF ESTABLISHMENT, METHOD OF PUBLICITY? DO LOCAL OR REGIONAL CONTROLS DIFFER FROM NATIONAL PRACTICE? WORK PERMITS ARE REQUIRED FOR FOREIGNERS. PRIOR CLEARANCE MUST BE RECEIVED THROUGH ITALIAN CONSULATE IN US. APPROVAL IS GRANTED ONLY IN CASES WHERE AN ITALIAN CANNOT FILL POSITION. IN PRACTICE, THIS HAS NOT PRESENTED PROBLEMS FOR US BANK EMPLOYEES WORKING ABROAD, SINCE HIGH MANAGERIAL POSITIONS COULD NOT BE FILLED BY ITALIANS. THERE ARE NO LEGAL LIMITS IMPOSED ON LOCATION OF BANKS. HOWEVER, THIS IS ONE FACTOR WHICH IS CONSIDERED BY BANK OF ITALY IN APPROVING OR REFUSING LICENSE TO OPERATE, BOTH WITH REGARD TO ITALIAN AND FOREIGN BANKS. AT PRESENT, ISSUANCE OF NEW LICENSES IS RATHER RESTRICTIVE, GIVEN RATHER WELL-DEVELOPED BANKING NETWORK ALREADY IN EXISTENCE. THERE ARE NO RESTRICTIONS ON METHODS OF PUBLICITY. BANK OF ITALY EXERCISES EXCLUSIVE LIMITED OFFICIAL USE

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PAGE 03 ROME 05468 191640Z

CONTROL OVER WHOLE BANKING SYSTEM; LOCAL GOVERNMENTS HAVE NO SPECIFIC AUTHORITY IN BANK REGULATION FIELD.

D. MAY FOREIGN-OWNED BANKS ENGAGE IN THE SECURITIES BUSINESS, IN CONSUMER FINANCING AND IN OTHER NON-BANK FINANCIAL OR IN NON-FINANCIAL ACTIVITIES ON SAME TERMS AND CONDITIONS AS ITALIAN BANKS? BOTH ITALIAN AND FOREIGN COMMERCIAL BANKS MAY ENGAGE IN SECURITIES BUSINESS, BUYING AND SELLING STOCK THROUGH AUTHORIZED

STOCKBROKER THROUGH STOCK EXCHANGE OR TRADING DIRECTLY AMONG THEMSELVES. BANKS (WHICH ARE SHORT-TERM COMMERCIAL CREDIT INSTITUTIONS) MAY EXTEND CONSUMER CREDIT, EVEN BEYOND USUAL 18-MONTH MATURITY LIMITS (I.E., UP TO FIVE YEARS), PROVIDED SUCH LONGER-TERM CREDIT DOES NOT EXCEED 8 PERCENT OF TOTAL DEPOSITS. ALTHOUGH BANKS MAY INVEST IN EQUITIES, THEY ARE NOT ORDINARILY ALLOWED TO HOLD SUCH SHARES FOR PURPOSE OF MANAGEMENT AND CONTROL. THIS LIMITATION PERMITS BANK OF ITALY TO RESTRICT BANKS' OPERATIONS TO FINANCIAL ACTIVITIES AND TO PROHIBIT ACTIVITIES IN NON-FINANCIAL AREAS.

(ART. 35, BANKING LAW OF 1936.)

E. DOES GOI REQUIRE FORMAL OR INFORMAL AGREEMENTS ON RECIPROCITY IN ESTABLISHMENT BEFORE ALLOWING FOREIGN BANKS TO ENTER THE ITALIAN MARKET? WHAT ARE THE TERMS AND CONDITIONS OF THESE AGREEMENTS AND THE MANNER OF IMPLEMENTATION? ART. 2 OF ROYAL DECREE 1620 OF SEPTEMBER 4, 1919 (RECONFIRMED BY ARTICLE 40-D OF BANKING LAW) PROVIDES THAT IN CONSIDERING REQUESTS BY FOREIGN BANKS TO ESTABLISH IN ITALY, THERE WILL BE TAKEN INTO CONSIDERATION TREATMENT ITALIAN BANKS RECEIVE IN COUNTRY OF FOREIGN BANK. IN PRACTICE, BOI EXAMINES RECIPROCITY ON NATIONAL BASIS, RATHER THAN WITH REGARD TO LOCAL BANKING SITUATION WHERE LOCAL BANK SUPERVISORY AUTHORITY EXISTS (E.G., US). HOWEVER, EXISTENCE OF RECIPROCITY AT LOCAL LEVEL IS HELPFUL IN PERSUADING BOI TO ACT FAVORABLY ON LICENSE.

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